



U.S. Department of Justice
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(By e-mail & U.S. Mail)

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RE:

Gulfco Marine Maintenance Superfund Site, Freeport, Texas --
Renewed Request for Performance of Removal Work under an AOC

Dear Counsel:

As your clients continue work at the Site under UAO 06-05-05A for Remedial Investigation and Feasibility Study, the United States urges that you also perform - under a CERCLA Administrative Order on Consent - the tank removal work which undoubtedly will be needed at the Site, regardless of the outcome of RI/FS and the balance of the remedy section process.

Our prior communications with you on that tank work, including those from October 2008 through February 2009, helped clarify some differences between the two sides but left that tank work undone.

This work needs to be done and the best outcome for all, including your clients, is completion now of an AOC for that work. As noted in our previous communications with you, the United States cannot assure your clients that no other response will be warranted at the Site. (Only completion of the RI/FS and issuance of the ROD for the Site can move in that direction.) Without doubt, however, the tank removal work will be warranted here, and your clients may be advantaged by performing that work under an AOC.

First, if your clients sign an AOC now, they likely will have a longer lead time for setting up and carrying out that work than will be the case if the work is left for later. Once other facets of Site evaluation are complete, the time allowed for the tank work will likely be shorter.

Second, it may be that your clients can complete the work at less cost now than will be the case later, both because of the lead time they may secure under an AOC and because the current state of the economy may produce lower bids for performance of the work than might be the case later on, as the economy rebounds and demands for crew and equipment increase.

Third, the sooner more of the work is complete, the closer this property may be to re-use, an objective shared by your clients and the federal government.

Last, the United States endeavors to secure in every case the best, appropriate result; in doing so, the actions of PRPs can be relevant; here, your clients have not paid past costs even though they have been demanded and did not agree to perform RI/FS work under a consensual agreement but instead are performing only in response to a UAO. Your clients no doubt have their reasons for the course they have taken, but your clients' agreeing to the tank removal AOC proposed by EPA certainly would improve their profile for the Site, from the government's point of view.

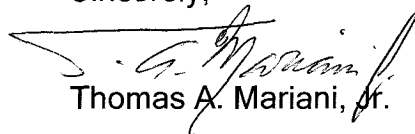
If your clients are willing to complete this tank removal work under an AOC of the kind EPA has proposed previously, the United States is ready to meet with you -- by conference call or in-person -- and work out any other issues which may remain on terms of an AOC.

I suggest a date in August or early September 2009 for such a meeting. If you can propose one or more dates for your group, we would try to be available for one of those dates or propose an alternate.

**Letter to Counsel for some of Respondents to Gulfco Marine RI/FS Unilateral
Administrative Order, CERCLA Docket No. 06-05-05A [from T. Mariani; Aug. 13, 2009]**

Please advise me if you are willing to meet on the terms proposed in this letter and thank you for considering this request.

Sincerely,



Thomas A. Mariani, Jr.

Cc: B. Nann & G. Miller

**Letter to Counsel for some of Respondents to Gulfco Marine RI/FS Unilateral
Administrative Order, CERCLA Docket No. 06-05-05A [from T. Mariani; Aug. 13, 2009]**